

08.09.2021
p.b.
Sl. No.67.

W.P.A. 12078 of 2021

S. R. Buildcon Pvt. Ltd.
Vs.
State of West Bengal & Ors.

(Via Video Conference)

Mr. Rishabh Karnani.
.....for the petitioner.

Mr. A. Ray,
Mr. Debasish Ghosh,
Mr. T. M. Siddiqui,
.....for the State.

In this matter, petitioner has challenged the impugned order dated 2nd March, 2021 passed by the appellate authority concerned rejecting the appeal in question of the petitioner which was filed against the order of the adjudicating authority dated 17th July, 2017 which according to the petitioner was dismissed on the ground of delay and failure on the part of the petitioner to make pre-deposit.

Learned advocate for the petitioner submits that the order passed by this Court dated 30th March, 2017 in W.P No.1211 (W) of 2016 (M/s. Vatech Wabag Limited Vs. Deputy Commissioner of Sales Tax, Midnapur Charge & Ors) according to which condition of pre-deposit of 15% of the demand for filing appeal under Section 84 of the West

Bengal VAT Act in every cases is not necessary has not been considered.

Considering the submission of the parties, this writ petition is disposed of by setting the impugned order of the appellate authority dated 22nd March, 2021 and the case is remanded to the appellate authority to consider afresh the issue of pre-deposit as well as delay aspect and while considering the issue of pre-deposit the appellate authority shall take into consideration the aforesaid judgment of this Court and to see whether the said judgment is applicable to the facts of the case of the petitioner or not and shall pass a reasoned and speaking order after giving an opportunity of hearing to the petitioner or its authorised representatives within eight weeks from the date of communication of this order.

Let it be recorded that this Court has not gone into the merit of the case of the petitioner and this order of remand is confining to the aforesaid two issues only by the appellate authority and further proceeding will depend on the adjudication and outcome of the aforesaid two issues.

This writ petition being WPA 12078 of 2021 is disposed of.

(Md. Nizamuddin, J.)